

ID: CCA_2008082713405950

Number: **200848076**

Office:

Release Date: 11/28/2008

UILC: 170.18-00

From:

Sent: Wednesday, August 27, 2008 1:41:01 PM

To:

Cc:

Subject: Conservation easement case

No deduction is allowed under § 170(a) for a qualified charitable contribution (including a qualified conservation contribution) of \$250 or more unless the taxpayer substantiates the contribution by a **contemporaneous written acknowledgment** of the contribution by the donee organization. IRC § 170(f)(8)(A). If an acknowledgment fails to contain the required information or the taxpayer fails to receive the acknowledgment within the required time, § 170(f)(8)(A) is clear that no deduction under § 170 is allowed (i.e., taxpayers may not cure the defect after the fact and receive a whole or partial deduction). See, e.g., Addis v. Commissioner, 374 F.3d 881, 887 (9th Cir. 2004) (consequence of acknowledgment that did not contain required information is total denial of deduction; partial deduction foreclosed by statute), affg. 118 T.C. 528 (2002).

Content of acknowledgment. A contemporaneous written acknowledgment with respect to the contribution of a conservation easement to a donee organization must include the following information:

1. a description (but not necessarily the value) of the property contributed;
2. whether the donee organization provided any goods or services in consideration, in whole or in part, for the contributed property; and
3. if goods or services were provided in consideration for the contributed property, a good faith estimate of the value of such goods or services. IRC § 170(f)(8)(B); Reg. § 1.170A-13(f)(2).

"Goods or services" includes cash. Reg. § 1.170A-13(f)(5).

Timing of acknowledgment. The acknowledgment required under § 170(f)(8)(A) is considered to be "contemporaneous" if the taxpayer obtains the acknowledgment on or before the earlier of--

1. the date on which the taxpayer files a return for the taxable year in which the contribution was made, or
2. the due date (including extensions) for filing such return. IRC § 170(f)(8)(C); Reg. § 1.170A-13(f)(3).

A writing that: (1) does not acknowledge a *contribution* of property but, instead, merely evidences a sale of the property (regardless of the actual value of the property) and (2) does not include a statement of whether any goods or services have been provided for the contribution is not a contemporaneous written acknowledgment under § 170(f)(8). A writing that does contain the required information under § 170(f)(8)(B) must be received by the taxpayer before the taxpayer files its *original* return for the taxable

year in which the contribution was made (or the due date, including extensions, for filing that return -- whichever is earlier).